

Environmental Protection Agency

§ 194.2

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AUTHORITY: The Waste Isolation Pilot Plant Land Withdrawal Act of 1992, Pub.L. 102-579, 106 Stat. 4777; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011-2296; Reorganization Plan No. 3 of 1970, 5 U.S.C. app.1; Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10101-10270.

SOURCE: 61 FR 5235, Feb. 9, 1996, unless otherwise noted.

Subpart A—General Provisions

§ 194.1 Purpose, scope, and applicability.

This part specifies criteria for the certification or any re-certification, or subsequent actions relating to the terms or conditions of certification of the Department of Energy's Waste Isolation Pilot Plant's compliance with the disposal regulations found at part 191 of this chapter and pursuant to section 8(d)(1) and section 8(f), respectively, of the WIPP LWA. The compliance certification application submitted pursuant to section 8(d)(1) of the WIPP LWA and any compliance re-certification application submitted pursuant to section 8(f) of the WIPP LWA

shall comply with the requirements of this part.

§ 194.2 Definitions.

Unless otherwise indicated in this part, all terms have the same meaning as in part 191 of this chapter.

Certification means any action taken by the Administrator pursuant to section 8(d)(1) of the WIPP LWA.

Compliance application(s) means the compliance certification application submitted to the Administrator pursuant to section 8(d)(1) of the WIPP LWA or any compliance re-certification applications submitted to the Administrator pursuant to section 8(f) of the WIPP LWA.

Compliance assessment(s) means the analysis conducted to determine compliance with § 191.15, and part 191, subpart C of this chapter.

Delaware Basin means those surface and subsurface features which lie inside the boundary formed to the north, east and west of the disposal system by the innermost edge of the Capitan Reef, and formed, to the south, by a straight line drawn from the southeastern point of the Davis Mountains to the most southwestern point of the Glass Mountains.

Deep drilling means those drilling events in the Delaware Basin that reach or exceed a depth of 2,150 feet below the surface relative to where such drilling occurred.

Department means the United States Department of Energy.

Disposal regulations means part 191, subparts B and C of this chapter.

Management systems review means the qualitative assessment of a data collection operation or organization(s) to establish whether the prevailing quality management structure, policies, practices, and procedures are adequate to ensure that the type and quality of data needed are obtained.

Modification means action(s) taken by the Administrator that alters the terms or conditions of certification pursuant to section 8(d)(1) of the WIPP LWA. Modification of any certification shall comply with this part and part 191 of this chapter.

Population of CCDFs means all possible complementary, cumulative distribution functions (CCDFs) that can

be generated from all disposal system parameter values used in performance assessments.

Population of estimates means all possible estimates of radiation doses and radionuclide concentrations that can be generated from all disposal system parameter values used in compliance assessments.

Quality assurance means those planned and systematic actions necessary to provide adequate confidence that the disposal system will comply with the disposal regulations set forth in part 191 of this chapter. Quality assurance includes quality control, which comprises those actions related to the physical characteristics of a material, structure, component, or system that provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

Re-certification means any action taken by the Administrator pursuant to section 8(f) of the WIPP LWA.

Regulatory time frame means the time period beginning at disposal and ending 10,000 years after disposal.

Revocation means any action taken by the Administrator to terminate the

certification pursuant to section 8(d)(1) of the WIPP LWA.

Secretary means the Secretary of Energy.

Shallow drilling means those drilling events in the Delaware Basin that do not reach a depth of 2,150 feet below the surface relative to where such drilling occurred.

Suspension means any action taken by the Administrator to withdraw, for a limited period of time, the certification pursuant to section 8(d)(1) of the WIPP LWA.

Waste means the radioactive waste, radioactive material and coincidental material subject to the requirements of part 191 of this chapter.

Waste characteristic means a property of the waste that has an impact on the containment of waste in the disposal system.

Waste component means an ingredient of the total inventory of the waste that influences a waste characteristic.

WIPP means the Waste Isolation Pilot Plant, as authorized pursuant to section 213 of the Department of Energy National Security and Military

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Applications of Nuclear Energy Authorization Act of 1980 (Pub.L. 96-164; 93 Stat. 1259, 1265).

WIPP LWA means the Waste Isolation Pilot Plant Land Withdrawal Act of 1992 (Pub.L. 102-579, 106 Stat. 4777).

§ 194.3 Communications.

(a) Compliance application(s) shall be:

(1) Addressed to the Administrator; and

(2) Signed by the Secretary.

(b) Communications and reports concerning the criteria in this part shall be:

(1) Addressed to the Administrator or the Administrator's authorized representative; and

(2) Signed by the Secretary or the Secretary's authorized representative.

§ 194.4 Conditions of compliance certification.

(a) Any certification of compliance issued pursuant to section 8(d)(1) of the WIPP LWA may include such conditions as the Administrator finds necessary to support such certification.

(b) Whether stated therein or not, the following conditions shall apply in any such certification:

(1) The certification shall be subject to modification, suspension or revocation by the Administrator. Any suspension of the certification shall be done at the discretion of the Administrator. Any modification or revocation of the certification shall be done by rule pursuant to 5 U.S.C. 553. If the Administrator revokes the certification, the Department shall retrieve, as soon as practicable and to the extent practicable, any waste emplaced in the disposal system.

(2) Any time after the Administrator issues a certification, the Administrator or the Administrator's authorized representative may submit a written request to the Department for information to enable the Administrator to determine whether the certification should be modified, suspended or revoked. Unless otherwise specified by the Administrator or the Administrator's authorized representative, the Department shall submit such information to the Administrator or the Administrator's authorized representative

within 30 calendar days of receipt of the request.

(3) Any time after the Administrator issues a certification, the Department shall report any planned or unplanned changes in activities or conditions pertaining to the disposal system that differ significantly from the most recent compliance application.

(i) The Department shall inform the Administrator, in writing, prior to making such a planned change in activity or disposal system condition.

(ii) In the event of an unplanned change in activity or condition, the Department shall immediately cease emplacement of waste in the disposal system if the Department determines that one or more of the following conditions is true:

(A) The containment requirements established pursuant to § 191.13 of this chapter have been or are expected to be exceeded;

(B) Releases from already-emplaced waste lead to committed effective doses that are or are expected to be in excess of those established pursuant to § 191.15 of this chapter. For purposes of this paragraph (b)(3)(ii)(B), emissions from operations covered pursuant to part 191, subpart A of this chapter are not included; or

(C) Releases have caused or are expected to cause concentrations of radionuclides or estimated doses due to radionuclides in underground sources of drinking water in the accessible environment to exceed the limits established pursuant to part 191, subpart C of this chapter.

(iii) If the Department determines that a condition described in paragraph (b)(3)(ii) of this section has occurred or is expected to occur, the Department shall notify the Administrator, in writing, within 24 hours of the determination. Such notification shall, to the extent practicable, include the following information:

(A) Identification of the location and environmental media of the release or the expected release;

(B) Identification of the type and quantity of waste (in activity in curies of each radionuclide) released or expected to be released;